

06/25/2015 13:04 group, di law

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P.003/015

Jun. 22. 2015 3:05PM THE ITM GROUP

No. 0527 P. 2

Name: Mickell, Darren
DOB: [REDACTED] 70



Psychological Evaluation Report

Name: Darren Mickell
Date of Birth: [REDACTED] 1970
Chronological Age: 44 years 9 months
Evaluator(s): Peggy Vermont, Psy.D., Licensed Psychologist
Date of Evaluation: June 10, 2015
Date of Report: June 22, 2015

REFERRAL QUESTION

Darren Mickell is 44 year old African American male who was self referred for a comprehensive psychological evaluation. Mr. Mickell is currently applying for NFL Total and Permanent (TP) disability. He reports that he recently completed a neuropsychological assessment with a NFL referred neuropsychologist on April 4, 2014. The neuropsychologist reported that Mr. Mickell appeared to have a mild cognitive disorder and that his physical symptoms, cognitive difficulties, and mood/behavior problems would make employment "at this point quite difficult." It was recommended that Mr. Mickell try to reduce some of the effects of the variables impeding his employment. Another evaluation neuropsychological completed by a second provider on April 27, 2015 indicated that there was "insufficient evidence supporting that Mr. Mickell was incapable of full time employment." His poor functioning appeared to be related to his psychiatric dysfunction and it was recommended he undergo a through psychiatric assessment including validity testing. The purpose of the current evaluation is to provide Mr. Mickell with clarification of his current mental health status, provide a diagnosis of any significant mental health disorder which may be impeding his social and occupational functioning, and to assess if his psychiatric symptoms are impeding his cognitive functioning.

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No. 0527 P. 3

Name: Mickell, Darren

DOB: [REDACTED] 70

SOURCES OF INFORMATION

Clinical Interview – Darren Mickell-3.0 hours

Millon Clinical Multiaxial Inventory- III

Structured Interview of Malingered Symptomatology (SIMS)

Beck Depression Inventory-II

Conners' Adult ADHD Rating Scale

Brief Interview with Mr. Mickell's girlfriend of 12 years-Nakisha Hendricks

Letter from Mr. Mickell's mother-Patricia Smith

Review of Records:

- Neuropsychological Examination- Dr. Mark Todd, Ph.D- 4/8/14-4/21/14
- Neuropsychological Evaluation-Sutapa Ford, Ph.D-4/27/15-4/29/15
- Letter from DI Law Group regarding Dr. Ford's Examination-4/29/15
- Letter from Dr. Ford regarding 4/29/15 letter from DI Law Group- 5/1/15
- Comprehensive Rehabilitation Evaluation/Independent Medical Evaluation-Darren Mickell-3/31/14- Dr. Lichtblau, M.D.
- Medical Functional Capacity Assessment- Darren Mickell-3/31/14- Dr. Lichtblau, M.D.
- AMA Impairment Rating-Darren Mickell-3/31/14- Dr. Lichtblau, M.D.
- Functional Assessment-Darren Mickell-3/31/14- Dr. Lichtblau, M.D.
- Summary Report-Darren Mickell-3/31/14- Dr. Lichtblau, M.D.
- NFL Physician's Report-4/14/15
- NFL Total and Permanent Physical-4/14/15- Dr. Canisares, M.D.
- NFL Player Neurology Report Form and Report- Dr. Peter Dunne, M.D. Consulting Neurologist-4/14/15

BEHAVIORAL OBSERVATIONS/MENTAL STATUS EVALUATION

Mr. Mickell was evaluated at the ITM Group office in Gainesville, Florida on June 10, 2015. He was accompanied to the evaluation by his girlfriend. Mr. Mickell presented as a well groomed African American male. His expressive and receptive language appeared to be delayed. His affect vacillated between anxious and depressed. He denied any suicidal or homicidal intent but stated that he had recurrent ideation. There was no indication that he was attending to any internal or external stimuli. His judgment and insight appeared to be fair. He stated that he had mild to moderate difficulty with his attention and/or concentration. Finally, Mr. Mickell's cognitive abilities appeared to be within the Low Average range.

ASSESSMENT RESULTS**Clinical Interview- Darren Mickell**

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Name: Mickell, Darren
DOB: [REDACTED] 70

The following information was provided by Mr. Mickell during our interview and is based on her self-report.

Family History

Mr. Mickell was born and raised in Miami, Florida. His parents were not married at the time of his birth. He was raised by his mother and grandmother. His father was not present in his life on a consistent basis and passed away when Mr. Mickell was 17 years old of liver disease. Mr. Mickell has four siblings and stated that he was close with all of his siblings. He also reported being very close with his entire family and that are all very supportive of him.

Currently, Mr. Mickell resides in Miramar, Florida with his mother, great-grandmother, and one sibling in a home that he owns.

Relationship History

Mr. Mickell has never been married. However he has been in his current relationship with Nakeisha Hendricks for the past eleven years. He stated that the couple recently broke up for several months due to trust issues but reconciled. He reports difficulties in the relationship due to his mental health issues. However he stated that he loved Ms. Hendricks and her two teenage children. Mr. Mickell and Ms. Hendricks have no children together. Mr. Mickell has four children from four separate relationships. He has a 26 year old son from a high school relationship and a 25 year old daughter from high school relationship that continued while he was in college and lasted four years. He has a 17 year old son with a woman he met in while playing football and had a one year relationship with and a 16 year old daughter with a woman he had a relationship with for two years. Mr. Mickell reports a good relationship with all of his children but stated that he would like to see them more often and "feels bad" he is not more present for them.

Educational History

Mr. Mickell graduated high school with a regular diploma. He was then recruited to play football at the University of Florida. While at the University of Florida he pursued a degree in criminal justice and had some aspirations of being a detective. He attended college for three years prior to leaving the university and pursuing a professional football career.

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Name: Mickell, Darren
DOB: [REDACTED] 70

Employment History/Finance

Mr. Mickell was employed by the National Football League from 1992 until 2002. After retiring from the NFL, Mr. Mickell was employed with video game machines from 2006 until 2009. From 2012-2014, he was employed for at the Publix warehouse as a fork lift driver. He stated that he needed to leave his employment because he could not "keep up physically and mentally." More specifically, Mr. Mickell stated that he often had fluid in his hip, had to work shorter hours due to his pain, "got into it with some of the guys," had difficulty focusing and then was frustrated when he made errors, and had loud arguments which were so intense it scared his co-workers. Finally, Mr. Mickell that due to his behavior he was often "written up a lot" for mixing up loads or "getting into it with the supervisor." Currently, Mr. Mickell is unemployed and lives off of his NFL retirement.

Substance Abuse History

Mr. Mickell stated that he began using marijuana at a young age and continued through college. While in the NFL, Mr. Mickell stated that he did not abuse any substances until the late 1990's when he socially abused marijuana and cocaine on an occasional basis when out socializing with other football players. In 1996 he failed a drug test due to cocaine and marijuana use and was ordered to attend an NFL affiliated drug treatment program. He stated that he attended the program for six months but found the therapist "not helpful." Looking back on his behavior, Mr. Mickell reported that he must have been depressed at the time of his cocaine use as this was uncharacteristic of him. Currently, Mr. Mickell reports self medicating himself with marijuana on a daily basis. He stated that marijuana helps him reduce the symptoms of pain and anxiety. Specifically, he stated that marijuana "calms me down."

History of Physical Abuse/Sexual Abuse

Mr. Mickell stated that he has no history of sexual of physical abuse. He stat

Arrest History

Mr. Mickell stated that he was arrested in college for having an open container of alcohol and received a ticket. He also was arrested for loitering and prowling while in college at the age of 18 or 19. He also stated that he has been pulled over several times for driving with a suspended license. His last traffic offense was five years ago.

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No. 0527 P. 6

Name: Mickell, Darren**DOB:** [REDACTED] 70**Medical History**

Mr. Mickell reports significant medical issues which he states are the result of his football career. During his football career, Mr. Mickell reported that he sustained multiple head contact related injuries and approximately 10 concussions. In addition he has had four knee surgeries, two shoulder surgeries, and often has chronic pain related to his knee, back, and hip related football injuries. He describes his pain level at an 8/10 and states that he also has recurrent headaches as well as difficulty with short term memory.

Psychological History

Mr. Mickell reported that no significant mental health issues as a child and adolescent. He stated that he was popular in school, and had many friends and liked to socialize. While in college and the NFL, Mr. Mickell also reported to no issues with his mental health. Mr. Mickell began to notice mental health issues approximately 5 years ago when it appears by his description that he began very clinically depressed. He reports not leaving his home, not showering or do tasks of daily living, staying in bed all day, and losing a significant amount of weight.

Currently, Mr. Mickell reports waking up often during the night, sweating while he is sleeping, feeling like "the room is closing in on me," significant panic attacks that occur at least twice a week during the day but are more significant at night and that can be triggered just by blowing his nose, significant anxiety over small things like getting a q-tip stuck in his ear, difficulties focusing, rumination all day with thoughts that are "all day," feeling so anxious and distressed he has thought of going to the hospital but was too embarrassed, having nightmares of people chasing him or killing somebody or feeling trapped, irritability, anger, suicidal/homicidal thoughts without intent, having a very low sex drive, being extremely agitated or "aggravated," and having violent thoughts of "hurting somebody" or "crazy thoughts like seeing myself shot." Usually when agitated or having significant feeling of anxiety, Mr. Mickell goes outside of his home to sit by himself or smokes marijuana. He reports his anxiety and rumination occur all day and are so disruptive that it is hard for him to keep his concentration. He has no history of violent outburst. However, he reports that his girlfriend has been fearful of him. He denies any significant psychosis related to hallucination or delusions. However he did report hearing beeping or a ringing in his ear. Socially, Mr. Mickell reported having several friends which he tries to see at least one time a

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Name: Mickell, Darren
DOB: [REDACTED]/70

week. However, he reports that he is always worried about what people are thinking. He stated that he "feels nervous talking" and "nervous around people" but that he tries hard not to show it. Finally, Mr. Mickell stated that he used to enjoy fishing, being with his friends, and having family over his house. However he states that he is more emotionally detached from others and does not get pleasure from any of the activities.

In a letter dated 6/10/15, Mr. Mickell's mother reported that she moved in with her son to help him with the bills around the house as he was neglecting his responsibilities. She stated that Mr. Mickell is often forgetful, complains of headaches, and has distanced himself from friends, family, and his children. She stated that Mr. Mickell stays isolated in his room and often wakes up in the middle of the night to go outside due to nightmares. Finally, she reported that Mr. Mickell has issues with his temper and was concerned he might hurt himself or someone else.

Mr. Mickell's girlfriend of eleven years, Nakeisha Hendricks, was interviewed by the evaluator and also wrote a letter regarding Mr. Mickell's functioning. She stated that Mr. Mickell suffers from constant pain, headaches, and mood changes. She stated that he does not sleep, has to be reminded of short term events, and is often depressed and angry that he is forgetful. Furthermore, Ms. Hendricks stated that over the past several years she has noticed a "decline" in his personality functioning and that he is often angry especially when he does not remember something. She stated that he does not interact with her or the children and that his appetite and weight changes with his moods. She stated that he needs someone with him on a daily basis or he will stay in bed refusing to do anything for himself. During an in person interview, Ms. Hendricks reported that Mr. Mickell's mental health issues have affected their sexual relationship and that Mr. Mickell has daily mood swings. He often forgets what she told him and then becomes angry and irritable which leads to daily arguments. She stated that she believes that when they met he was depressed but now he "lacks ration or reason." She fears the possibility of him becoming violent. He only sleeps three hours per night and that he often goes to bed at 2 am and wakes up at 6 am. In his sleep, Ms. Hendricks reports that Mr. Mickell "never stops moving." When asked about when he was employed, Ms. Hendricks reported that Mr. Mickell could not do the responsibilities at his employment successful and would often come home

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Name: Mickell, Darren
DOB: [REDACTED] 70

frustrated because he could not do what was expected of him. Finally, she stated that Mr. Mickell is a "different person day to day."

Mr. Mickell completed a neuropsychology evaluation in April 2014 with Mark Todd, PhD at the Neurologic Consultants PA. Results of the evaluation indicated that Mr. Mickell had cognitive deficits and a psychiatric illness (depression and anger). At the time of evaluation, Mr. Mickell was complaining of memory problems, difficulties with concentration, word loss, focus issues, problems with information processing, fatigue, chronic headaches, and chronic pain. Results of specific testing indicated that Mr. Mickell's cognitive abilities were in the low average range of ability with processing speed in the borderline range of functioning which was noted as an area of weakness. Poor processing speed effects an individual's ability to process information that is presented and complete a task in a set amount of time. Obviously, Mr. Mickell's ability to process information and complete a specific tasks was delayed compared to other adults his age and effects his overall cognition. Mr. Mickell's academic skills were noted in the low average range and comparable to his cognitive abilities. His verbal fluency was noted in the low end of the average range. Mr. Mickell's verbal executive functioning was in the borderline range of ability and appeared impaired and his visual perceptual skills also were noted as impaired when he was asked to perceptually reorganize objects that were cut up. With regards to his memory, Mr. Mickell's immediate recall was in the low average range and short term recall was noted in the low end of the average range. Short term visual memory with delay was noted as impaired marking a loss of visual memory over time. Results of the MMPI-RF indicated marked symptoms of depression, anxiety, and worry. Overall, the evaluator found Mr. Mickell to have a mild cognitive disorder with issues with visual information, rote verbal learning, and visual perceptual analysis. It was recommended that Mr. Mickell follow up with medical care, be treated for his pain, adopt a fitness program, consider medical management of his psychological symptoms and have a neurological re-examination in one years time. The evaluator also stated that Mr. Mickell's mood, behavior problems, physical problems, and cognitive difficulties would make "competitive employment at this point quite difficult."

Mr. Mickell completed a Neuropsychological Re-Evaluation with Dr. Sutapa Ford,

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Name: Mickell, Darren
DOB: [REDACTED] 70

PhD on April 27 and April 29, 2015. Testing indicated that Mr. Mickell failed all validity measures performing poorly and indicated suboptimal effort. Test results indicated Mr. Mickell's cognitive abilities were intact, his information processing speed was mildly diminished, auditory attention significantly impaired, verbal memory slightly impaired and decrements in visual memory, executive functioning abilities were intact, and visual naming/language was severely impaired. Despite poor performance on validity measures, overall results indicated that Mr. Mickell's April 2014 test scores were comparable to his April 2015. However, despite noting that Mr. Mickell's neurological functioning was consistent over time, the evaluator stated that there was "insufficient evidence to support the notion that Mr. Mickell was incapable of full time employment." It was recommended that Mr. Mickell undergo a thorough psychiatric assessment with validity testing and formal assessment of response biases.

A Comprehensive Rehabilitation Evaluation completed by Dr. Lichtblau, M.D. on 3/31/14 found that Mr. Mickell had "probable traumatic brain injuries with subsequent post traumatic headaches and cognitive deficits, secondary to duties sustained from playing football from the NFL from 1992-2001". Dr. Lichtblau also concluded that Mr. Mickell "will be unable to maintain gainful employment in the competitive open labor market or in a sheltered environment with a benevolent employer, secondary to acute, intermittent exacerbations of chronic pain."

Structured Assessments

Diagnostic impressions and recommendations are formulated from the results of these assessments in combination with information provided and gathered during the clinical interview. Thus the following results should not be considered definitive but are evaluated in conjunction with additional clinical data.

Millon Clinical Multiaxial Inventory III

The Millon Clinical Multiaxial Inventory III is a psychological assessment tool intended to provide information on psychopathology, including specific disorders outlined in the DSM-IV. It is intended for adults (18 and over) with at least an 8th grade reading level who are currently seeking mental health services. The MCMI was developed and standardized specifically on clinical populations. The MCMI-III reports are normed on patients who were in the early phases of assessment or

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Name: Mickell, Darren
DOB: [REDACTED] 70

psychotherapy. It is comprised of 175 True/False questions and contains a total of 28 scales broken down into 24 clinical scales (personality and clinical syndrome scales) organized by severity.

Results of Mr. Mickell's MCMI-III suggest that Mr. Mickell's response style may indicate a broad tendency to magnify the experienced illness or a characterological inclination to complain or to be self-pitying. On the other hand, his response style may convey feelings of extreme vulnerability that are associated with a current episode of acute turmoil.

More specifically, Mr. Mickell's profile is that of a man who is unusually dependent and self effacing. He leans on others for guidance and security, assuming a passive role in most relationships. A striking lack of initiative and general avoidance of autonomy are notable. Dependent and vulnerable if separated from those who provide him support, he may resent those who he depends because they are often critical and disapproving. Anger may be expressed infrequently toward those who fail to appreciate his intense insecurities and his need for nurturance. He may withdraw from social relationships in a defensive effort to calm his anxiety. Depressive feelings of loneliness and isolation are increasingly experienced. While at times he may appear to be calm, he has underlying tensions include a disturbing mixture of anxiety, sadness, and guilt. Except for his occasional outburst, he tries to be conciliatory, placating, and ingratiating.

Preoccupations with matters of personal adequacy and chronic feelings of worthlessness and guilt appear to predominate in his major depression. He appears especially sensitive to public humiliation and rejection. He is plagued with self doubts and thoughts of death, he may be notable saddened by the view that he is both socially unattractive and physically inferior. He deals with frustration by turning inward and becoming depressed. Overall he is characteristically, anxious and moody as well as preoccupied by physical fears and complaints. He most likely keeps his emotions bottled up and undischarged. His constant anxiety may make relaxation difficult for him. In addition, to a significant mood disorder, results are also consistent with Mr. Mickell having a significant anxiety disorder. Wildly generalized symptoms are consistent with his current overall personality make up: behavioral edginess, apprehensiveness over small matters, worrisome

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Name: Mickell, Darren
 DOB: [REDACTED] 70

self doubts, fatigue, insomnia, headaches, and an inability to concentrate. He also endorsed symptoms including outbursts of anger, panic attacks, exaggerated startle response, and feelings of detachment.

Treatment should include supportive psychotropic measures to address his clinical anxiety and depressive hopelessness. Psychopharmacology, with appropriate consultation, may be useful at this early stage in treatment. However, long term therapy based treatment is indicated to should focus on increasing his self esteem and decreasing his dependency on others.

Beck Depression Inventory-II

The Beck Depression Inventory (BDI-II), a self administered questionnaire regarding depression symptoms, was administered to Mr. Mickell. Results of the BDI indicate that Mr. Mickell reported significant depressive symptoms. More specifically, he reported that he feels sad much of the time, he feels his future is hopeless and will only get worse, looks back and sees a lot of failures, gets very little pleasure from this he used to enjoy, feels guilty over many things he has done or should have done, feels he may be punished, feels disappointed in himself, criticizes himself for all of his faults, has thoughts of killing himself but would never carry them out, cries more than he used to, feels restless or agitated, finds it difficult to get interested in things, has more difficulty making decisions, does not have enough energy, sleeps most of the day, is more irritable than usual, has less of an appetite, has difficulty concentrating, is too tired to do things he used to do, and is much less interested in sex.

Conners' Adult ADHD Rating Scale (T-scores above 70 are significant)

	<u>T-scores</u>
Inattention/Memory Problems	76
Hyperactivity/Restlessness	60
Impulsivity/Emotional Lability	62
Problems with Self Concept	72
DSM-IV Inattentive Symptoms	90
DSM-IV Hyperactivity-Impulsive Symptoms	57
DSM-IV ADHD Symptoms Total	75
ADHD Index	67

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Name: Mickell, Darren
DOB: [REDACTED] 70

The Connors Adult ADHD Rating Scales (CAARS- Long Version) is a self report scale that is designed to help assess Inattention/Memory Problems, Impulsive/Emotional Lability, Hyperactivity/Restlessness, and Problems with Self Concept in adults ages 18 years and older. It was given to Mr. Mickell to assess his symptoms related to attention and concentration difficulties. Results of the CAARS indicated significant elevations on the Inattentive Symptoms, Problems with Self Concept, DSM-IV Inattentive Symptoms, and DSM-IV ADHD Symptoms Total domains. More specifically, Mr. Mickell reported that he doesn't plan ahead, blurts things out, lose things necessary for tasks, says things without thinking, has difficulty staying in one place for along time, is not sure of himself, hard to keep track of several things at once, forgets to remember things, has a short temper, has trouble keeping his focus, avoids new challenges due to his lack of faith in his abilities, feels restless, feels forgetful with daily activities, is easily set off, loses things he needs, can't get things done without a deadline, is absent minded, lacks confidence in his abilities, is irritable, has trouble finishing tasks, has difficulty believing in himself, has problems organizing tasks, and is distracted by things going on around him.

Structured Interview of Malingered Symptomatology (SIMS)

The SIMS Total score provides an overall estimate of the likelihood that an individual is feigning/exaggerating symptoms of psychiatric or cognitive dysfunction. While Mr. Mickell's SIMS Total score was elevated above the test author's recommended cutoff score for the identification of likely feigning, subsequent research suggested that the cutoff score should be increased. Mr. Mickell's SIM's results were not above the new suggested cutoff score. Thus malingering was not considered in issue with the current assessment and reporting of symptoms.

CLINICAL IMPRESSIONS (DSM V)

- 311 Unspecified Depressive Disorder
- 300.02 Generalized Anxiety Disorder
- 331.81 Mild Neurocognitive Disorder, Unspecified (R/O Traumatic Brain Injury/CTE)

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No. 0527 P. 13

Name: Mickell, Darren

DOB: [REDACTED] 70

SUMMARY AND RECOMMENDATIONS

Darren Mickell is 44 year old African American male who was self referred for a comprehensive psychological evaluation. Mr. Mickell is currently applying for NFL Total and Permanent (TP) disability. He reports that he recently completed a neuropsychological assessment with a NFL referred neuropsychologist on April 4, 2014. The neuropsychologist reported that Mr. Mickell appeared to have a mild cognitive disorder and that his physical symptoms, cognitive difficulties, and mood/behavior problems would make employment "at this point quite difficult." It was recommended that Mr. Mickell try to reduce some of the effects of the variables impeding his employment. Another evaluation neuropsychological completed by a second provider on April 27, 2015 indicated that there was "insufficient evidence supporting that Mr. Mickell was incapable of full time employment." His poor functioning appeared to be related to his psychiatric dysfunction and it was recommended he undergo a through psychiatric assessment including validity testing. The purpose of the current evaluation is to provide Mr. Mickell with clarification of his current mental health status, provide a diagnosis of any significant mental health disorder which may be impeding his social and occupational functioning, and to assess if his psychiatric symptoms are impeding his cognitive functioning.

Based on his history, psychological testing, current interview, and outside records, it appears that Mr. Mickell is suffering from significant mental health symptoms that are impeding his social, emotional, and occupational functioning. Due the severity of his mood and anxiety symptoms, Mr. Mickell is not deemed employable at this time. While Mr. Mickell's depression and anxiety may significantly improve with psychiatric medication management, there is a high likelihood that medications may only ameliorate a small percentage of his most severe psychiatric symptoms. Therapy would also be useful to help control his symptoms but appears that it would have to intense and long term in order to be beneficial. Furthermore, despite better psychological functioning with treatment, Mr. Mickell's neurocognitive functioning may not show any improvement with medication or therapy as his neurological injuries are most likely due to "probable traumatic brain injuries" as noted by Dr. Lichtblau. In addition, psychiatric medications may also cause significant side effects which may decrease Mr. Mickell's cognitive functioning while improving his mental health symptoms. At this time, Mr. Mickell's psychiatric prognosis is fair if he follow through on medication management and therapy and poor if he does not follow through.

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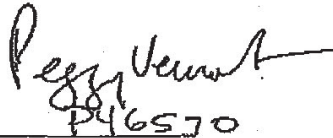
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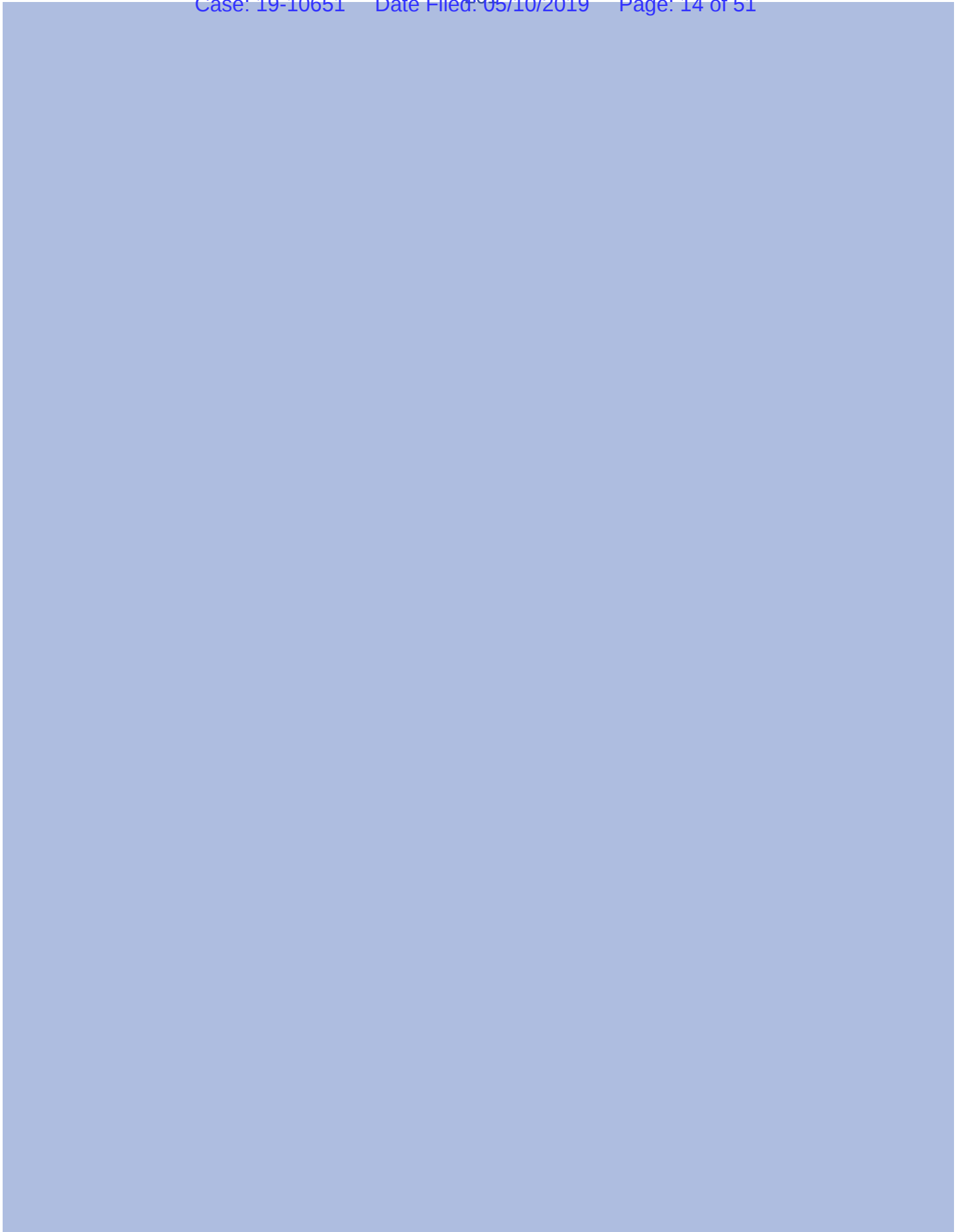
Name: Mickell, Darren
DOB: [REDACTED] 70

Please contact me at (352) 379-2829 if you have any additional questions.



Peggy Vermont
P46570

Peggy Vermont, Psy.D.
Licensed Clinical Psychologist
FLPY#6570



MICKELL-1343

07/08/2015 12:17 group, dl law

(FAX) 954 989 9999

P.002/002



Paulino-Grisham, Smith, & Chmielarz, P.A.

July 8, 2015

Sent Via U.S. Mail & Facsimile: (410) 783-0041

Retirement Board for the
Bert Bell/Pete Rozelle NFL Player Retirement Plan
Attn.: Elton Banks, Benefits Coordinator
200 St. Paul Street, Suite 2420
Baltimore, MD 21208-2008

RE: Name: Darren Mickell
Incident #: Total and Permanent Disability Benefits

Dear Mr. Banks:

Please provide me with a copy of the Report prepared by Dr. Faber following his examination of Mr. Mickell on July 7, 2015 as soon as possible, but at least ten (10) days prior to the NFLPA's disability review meeting scheduled for August 14, 2015. As all previous reports were sent to me prior to the last disability review meeting, this should not be a problem.

Should you have any questions or wish to further discuss this matter, please do not hesitate to contact me at (954) 989-9000.

Very truly yours,


Mindy L. Chmielarz
For the Firm

cc: Mr. Alvaro Anillo, Esquire via Facsimile (202) 659-4503



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224 Datura Street, Suite 402
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MICKELL-1345



NFL Player Disability & Neurocognitive Benefit Plan

200 Saint Paul Street, Suite 2420 | Baltimore, MD 21202 | 800-638-3186 | Fax 410-783-0041

Total & Permanent Disability Benefits

PHYSICIAN'S REPORT FORM

Notice to Physician: To preserve your independence and the integrity of the decision-making process, you must avoid contacts with attorneys or other representatives of the player seeking disability benefits from the Bert Bell/Pete Rozelle NFL Player Retirement Plan. Please notify Rose Mary Eves or Paul Scott at the Plan Office (Tel. No. (800)638-3186) if you are contacted by any of these individuals.

To Be Completed By Plan Office:

1. Player's Name Darren Mickell Date of Birth ██████/1970
 2. Address 9250 Chelsea Dr, Miramar, FL 33025
 3. Credited Seasons 1992-1997, 1999-2000 Telephone (954)544-8203 M

4. When did you first examine the player? JULY 7, 2015

5. Have you or have any of your partners ever treated the player? Yes No ✓

6. What is the nature of the impairment? ANXIETY, DEPRESSION

7. Impairment Information (attach additional sheets if necessary)

Impairment to:	Impairment results from:	Has the impairment persisted or is it expected to persist for at least 12 months from the date of its occurrence?
<u>ANXIETY, DEPRESSION</u>	<input type="checkbox"/> Illness <input type="checkbox"/> Injury <input checked="" type="checkbox"/> Unknown	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Cannot be determined
	<input type="checkbox"/> Illness <input type="checkbox"/> Injury <input type="checkbox"/> Unknown	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Cannot be determined
	<input type="checkbox"/> Illness <input type="checkbox"/> Injury <input type="checkbox"/> Unknown	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Cannot be determined
	<input type="checkbox"/> Illness <input type="checkbox"/> Injury <input type="checkbox"/> Unknown	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Cannot be determined

RECEIVED

JUL 20 2015

NFL PLAYER BENEFITS

RBM 08/19/2015

Raymond Faber, M.D.
(Neutral Psychiatrist)

MICKELL-1346

A1462

Physician's Report for **Darren Mickell**
Page 2

8. In your opinion, is the patient totally disabled to the extent that he is substantially unable to engage in any occupation for remuneration or profit?

Yes _____

No ☒ _____

If you checked Yes:

- Specify the medical conditions and how these conditions prevent the Player from working.

- How long do you estimate the Player will be unable to be gainfully employed at any occupation? _____

If you checked No:

- In what type of employment can he engage?

ASSIST IN SPORTS PROGRAM FOR YOUTHS

9. Additional remarks by physician _____

Please attach the required Medical Report with this form.

Physician's Name (typed or printed): Raymond Faber, M.D.

Address 4201 Medical Drive

Room 245

San Antonio, TX 78229

Telephone (210)704-7097

I certify that I have personally examined this Player and have personally reviewed any and all records of this Player given to me, and have personally reviewed the attached narrative reports. I also certify that my ratings and comments reflect my best professional judgment, and that I am not biased toward or against this Player.

Signature _____

Examination Date _____

Raymond Faber, MD July 7, 2015

Mail completed form with your narrative report to Rose Mary Eves at the Bert Bell/Pete Rozelle NFL Player Retirement Plan, 200 St. Paul Place, Suite 2420, Baltimore, MD 21202-2040.

RBM 08/19/2015

MICKELL-1347

A1463

RAYMOND FABER, M.D.
11703 HUEBNER
SUITE 106-273
SAN ANTONIO, TEXAS 78230
210-667-8312

PSYCHIATRIC DISABILITY EXAMINATION

IDENTIFYING INFORMATION:

Name: Darrren Mickell
Date of birth: [REDACTED] 1970 (44 years old)
Date of evaluation: July 7, 2015
Examination location: 4201 Medical Drive
Suite 245
San Antonio, TX 78229

CHIEF COMPLAINT: Mr. Mickell was on time for his appointment. At the outset of our meeting I explained that anything I learned from him could be included in my evaluation and not remain confidential as in the usual doctor-patient relationship. Mr. Mickell understood this and agreed to proceed. He was reasonably cooperative in answering questions, but in several instances he was indignant about my question or objected to my query. His chief concern is that he is not able to work. Mr. Mickell said his chief concerns were having headaches, being forgetful, and being angry at the NFL because "they don't care about me." Mr. Mickell said he was depressed because of his frustration with the NFL. He is also depressed because he feels some of his abilities are declining, he is scared of the future, and his memory difficulties are getting worse. By way of example he said that his hours at his last job were cut in half because "I couldn't keep up."

Mr. Mickell is concerned that he sometimes loses track of what he is saying. Mr. Mickell describes having had several panic attacks and was even "thinking about getting medication for this." One panic attack was precipitated by blowing his nose then fearing he wouldn't be able to breathe. On another occasion the tip of a Q-tip lodged in his ear and when panicked he asked his mother to call 911. On another occasion he accidentally locked himself in a closet and kicked down the door to get out. Once when having an MRI scan his mounting anxiety required a nurse to hold his hand and calm him enough to talk him through having it completed. He couldn't recall if the scan was of his head or body or one of his limbs and got angry when I inquired more about the reason for the MRI. Mr. Mickell is troubled by his getting angry and then feels bad when his anger escalates. He has difficulty being in social situation and restricts his social contacts.

Mr. Mickell has problems remembering people and was flustered when he saw a woman at a mall who kept looking at him and approached him and then expressed irritation at his not remembering her. He suspects the woman was a former girlfriend.

Mr. Mickell stays in his house watching television for most of each day. As cooking is one of his main interests, he especially likes to watch Chef Ramsey and Rachel Ray. He described having a very well-stocked kitchen and regularly trying recipes taken from the internet that look interesting. He mentioned Chinese style pepper steak and pasta as two of his specialties. He said his girlfriend really loves his cooking. He watches CNBC and sports channels. He follows football especially the Ravens because they are especially adept at disguising their defenses. He discussed this in some detail. He also occasionally goes out with his girlfriend to watch UFC fights at a sports bar. He enjoyed a fishing outing with some friends a few weeks ago. Last year he had difficulty taking a single college course in social programming which he found interesting but only got a grade of "D."

Because I had received a copy of correspondence from a law firm representing Mr. Mickell and he mentioned taking the NFL to court, I asked him how he was paying his legal expenses. Mr. Mickell strongly objected to this question and he became visibly annoyed, raised his voice, and questioned why I had to ask him this. He said he contacted the firm after learning about it from a friend who had also played in the NFL. He finally said "15%, maybe 20% or 10%, say 15%."

BACKGROUND: Mr. Mickell grew up in Miami, Florida. He was reared by his mother, grandmother, great grandmother, and great grandfather. He spoke very fondly of his great grandparents and how he misses them. He recounted very touching memories of his great grandmother teaching him to fish. His father died from complications of diabetes when Mr. Mickell was 17. Mr. Mickell had an unremarkable childhood but did have to repeat eighth grade because of skipping school. He excelled at sports. When I asked him what colleges had offered him a scholarship, he replied "every one." When I asked him to be more specific, he raised his voice and said "Notre Dame...every one." Mr. Mickell has three siblings. He never married. He has four children. He has had the same girlfriend for 11 years and sees her nearly daily. He has encouraged her son's success in football.

EMPLOYMENT HISTORY: Mr. Mickell explained that he did not need to work immediately after his NFL career. However he soon entered into a business venture with a friend involving placing video games and pool tables in establishments and then splitting the proceeds with the owner. This venture ended when they could no longer get ready access to the games or establishments. Mr. Mickell explained that he did not work for the next six years because of knee, back, and head pain and added that at that time he didn't work because "I didn't have to." In 2011 or 2012 he worked as a fork lift driver at a Publix warehouse. He found the job difficult because of hip trouble and he sometimes mixed up the loads. His hours were cut to part time "but I couldn't hold up."

He was unable to explicate this. He stated quite forcefully that he wasn't fired but he resigned after a year and a half. Mr. Mickell said that his work at Publix helped his depression. He has not been employed since then but spontaneously stated that he is eligible to start collecting a pension in one year and he has money saved.

MEDICAL/PSYCHIATRIC HISTORY: Mr. Mickell weighs 260. He describes numerous aches and pains he attributes to his football career. He has had four knee surgeries and two shoulder surgeries. He gets relief from pain and anxiety by using marijuana on a daily basis for about the past one year. In college he was suspended for the first five games of a season after testing positive for marijuana. He played the rest of the season and then entered the NFL supplemental draft. He violated NFL policy when he tested positive for cocaine and marijuana in 1996 and was suspended for four games. In spite of thereafter being tested ten times per month Mr. Mickell again tested positive and was suspended for one year. Mr. Mickell limits his alcohol consumption to a couple of beers on weekends. Mr. Mickell complained of having pain in his toes which feel like they are on fire. He also complained of sometimes losing his balance. He describes having a loss of libido.

Mr. Mickell had not sought mental health treatment until recently when he had an appointment with a Dr. Nunez. He did not know if Dr. Nunez was a psychiatric physician or a psychologist or some other type of therapist. After telling me this he added that he may have forgotten that he had a second appointment scheduled. He said he had not sought treatment because "they would just give me pills." He later said that he could not seek treatment because he had not had insurance but does now with Obamacare.

Mr. Mickell sleeps only a few hours. He watches television until three or four AM. He leaves the TV on all night, otherwise he would "think all night." He said his weight had dropped from 280 to 260 pounds in about a month. He is able to concentrate on reading the Bible for about one hour a day. He attends a religious service twice a week. He sometimes neglects his personal hygiene and grooming and allows his laundry to pile up. He says he has low self-confidence and a neutral view of himself as a person. He has not felt suicidal or ever harmed himself.

MENTAL STATUS EXAMINATION: Mr. Mickell appears to be his stated age. He has a muscular build though he walks with a slight limp. He made good eye contact and paid close attention to all that I said. He was casually though neatly attired. He occasionally stood up briefly to stretch his legs. His speech was quite understandable and his vocabulary is more than adequate. He had no difficulty understanding my questions and his responses were always on the point. His mood was often sullen. His affect was generally intense and at times labile depending on the subject being discussed. He did not appear to be anxious during my interview though he emphasized anxiety being an ongoing problem. He expressed frustration and was dejected by his ongoing difficulty in getting a disability awarded. He is very pessimistic about being able to sustain employment but does not express regret about this. He has had no thoughts of harming

himself but described unfocused thoughts about hurting the NFL. He denied experiencing psychotic symptoms, but is preoccupied about getting a disability award for which he feels extremely entitled. Mr. Mickell has very limited insight into factors contributing to his complaints. His judgment is inconsistent as he is following a logical course in pursuing a disability yet at the same time eschews medication while using marijuana daily.

COGNITIVE EVALUATION: Mr. Mickell was well aware of the purpose of my evaluation. He travelled unassisted to San Antonio and found my office without difficulty. Because he had had extensive neuropsychological testing, I saw no need to formally assess his cognition given his vocabulary and cogent thought.

DIAGNOSIS: Depression and anxiety not otherwise specified.

RECOMMENDATION: Though Mr. Mickell has psychological difficulties which have an effect on his functioning, I do not consider them to rise to a level which precludes some kind of employment. At this juncture I would offer two suggestions for Mr. Mickell. He would be well-served to engage in psychotherapy to help him gain insight into his personality and to develop more realistic expectations. Mr. Mickell greatly downplays his abilities and assets while he amplifies his difficulties. He has many positive qualities which he seriously undervalues. Secondly, Mr. Mickell should seek the services of a vocational counsellor for career guidance.



Raymond Faber, M.D.



MICKELL-1352



Paulino-Grisham, Smith, & Chmielarz, P.A.

July 27, 2015

Sent Via U.S. Mail & Facsimile: (410) 783-0041

Retirement Board for the
Bert Bell/Pete Rozelle NFL Player Retirement Plan
Attn.: Elton Banks, Benefits Coordinator
200 St. Paul Street, Suite 2420
Baltimore, MD 21208-2008


RE: Name: Darren Mickell
Incident #: Total and Permanent Disability Benefits

Dear Mr. Banks:

This letter is written as a follow up to my letter dated July 8, 2015 in which I asked that you please provide me with a copy of the Report prepared by Dr. Faber following his examination of Mr. Mickell on July 7, 2015. Please confirm your receipt of my correspondence and advise me when I can expect a copy of Dr. Faber's report.

Your anticipated cooperation with this request is greatly appreciated.

Very truly yours,


Mindy L. Chmielarz,
For the Firm

RECEIVED

AUG 3 2015

NFL PLAYER BENEFITS



www.dilawgroup.com

Nationwide

tf 888.644.2644

Broward (Correspondences)

4151 Hollywood Boulevard
Hollywood, Florida 33021
o/c 954.989.9000
fax 954.989.9999

West Palm Beach

224 Datura Street, Suite 402
West Palm Beach, Florida 33401
o/c 561.202.9170
fax 561.202.9194

MICKELL-1353

A1469



MICKELL-1354



NFL Player Disability & Neurocognitive Benefit Plan

200 Saint Paul Street, Suite 2420 | Baltimore, MD 21202 | 800-638-3186 | Fax 410-783-0041

MEMORANDUM

TO: Mindy Chmielarz
4151 Hollywood Blvd
Hollywood, FL 33021

Date: August 7, 2015

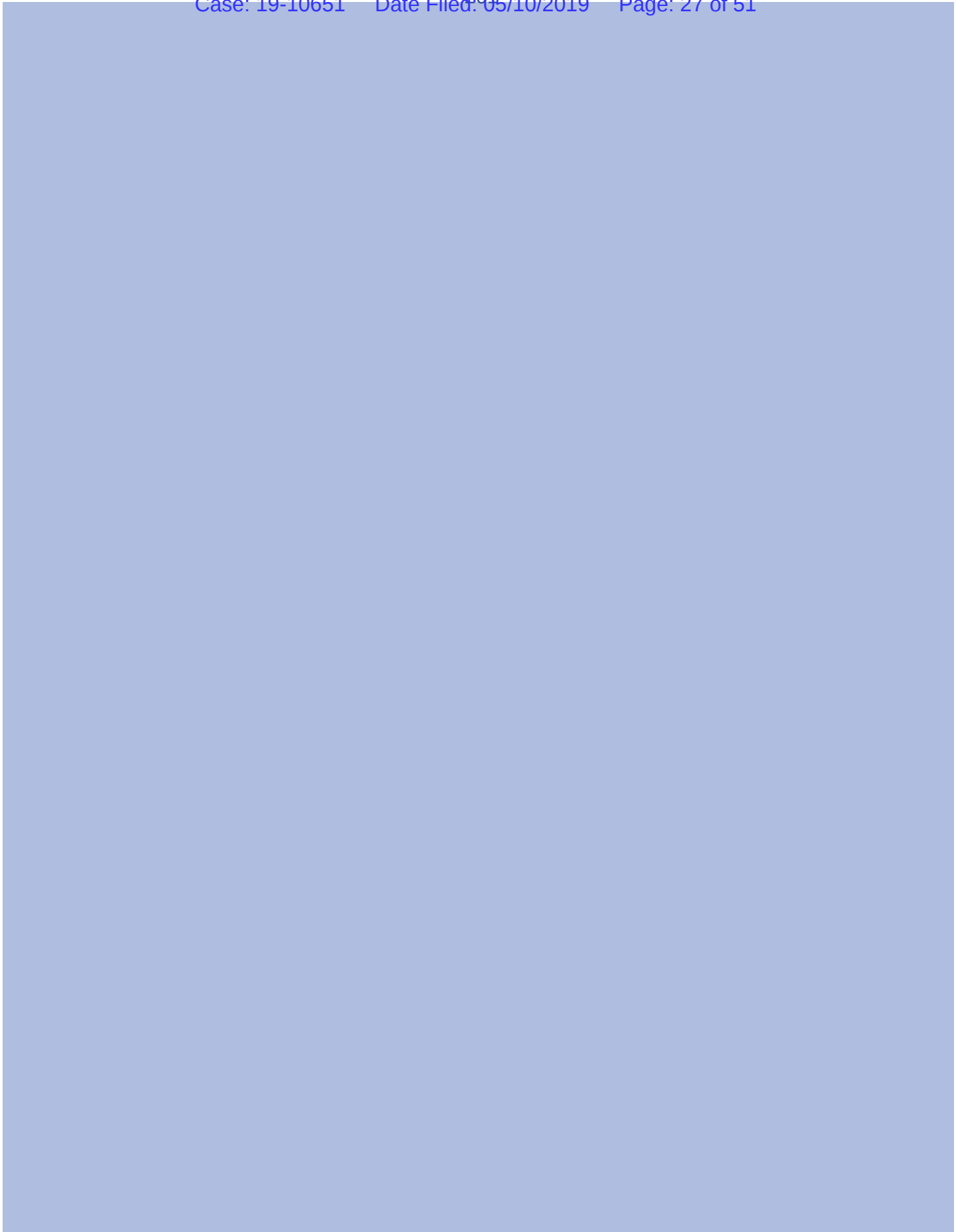
FROM: Elton D. Banks

RE: Bert Bell/Pete Rozelle NFL Player Retirement Plan

As requested, please find enclosed a copy of the report from Mr. Mickell's recent evaluation with Plan's neutral physician. If you have any questions, please contact the Plan office.

MICKELL-1355

A1471



MICKELL-1356

08/12/2015 10:27 Mickell, Darren

(FAX) 954 989 9999

P.002/004

D I L A W G R O U P

Paulino-Grisham, Smith, & Chmielarz, P.A.

August 12, 2015

Sent Via U.S. Mail & Facsimile: (410) 783-0041

Retirement Board for the
Bert Bell/Pete Rozelle NFL Player Retirement Plan
Attn.: Elton Banks, Benefits Coordinator
200 St. Paul Street, Suite 2420
Baltimore, MD 21208-2008

RE: Name: Darren Mickell
Incident #: Total and Permanent Disability Benefits

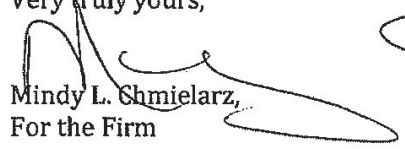
Dear Mr. Banks;

As you are aware, I received the report from Dr. Faber only yesterday, despite requesting that you provide a copy to me with sufficient time for Mr. Mickell's doctor(s) to respond. Please note that Dr. Faber's report has been forwarded to Dr. Peggy Vermont for review and response.

Enclosed please find a signed Statement from Mr. Mickell's treating psychologist, Rosa Gonzalez, advising that in her opinion Mr. Mickell is unable to engage in any occupation for remuneration or profit. Please make sure this statement is included as a part of Mr. Mickell's claim file and considered during the review of his claim. Also, please call and let me know the date of the NFL's review of Mr. Mickell's claim.

Should you have any questions or wish to further discuss this matter, please do not hesitate to contact me at (954) 989-9000.

Very truly yours,


Mindy L. Chmielarz,
For the Firm

cc: Mr. Alvaro Anillo, Esquire via Facsimile (202) 659-4503



www.dilawgroup.com

Nationwide

tf 888.644.2644

Broward (Correspondences)

4151 Hollywood Boulevard
Hollywood, Florida 33021
o/c 954.989.9000
fax 954.989.9999

West Palm Beach

224 Datura Street, Suite 402
West Palm Beach, Florida 33401
o/c 561.202.9170
fax 561.202.9194

RBM 08/19/2015

MICKELL-1357

A1473

TREATMENT PROVIDER STATEMENT

Patient: DARREN MICKELL

Date of Examination(s): Initially seen by Dr. Jeannie Chandler Nunez who then referred him to me. I performed an initial Mental Status Examination on July 29, 2015.

Diagnoses: Primary Diagnoses includes Depression and Anxiety. I referred him to a psychiatrist to be stabilized with medications. He is then return to weekly psychotherapy sessions with me in an effort to get his depression, anxiety, and stress levels under control and to a point where they are manageable.

Appearance/Affect/Mood

Darren presented with an overall depressed mood. He was also visibly anxious and showed signs of stress, anxiety, and aggression. His long term memory appeared to be okay as he was able to remember dates, his kids' ages, and other personal information. However, his short term memory was less intact, possibly due to stress, depression and history of concussions. His concentration level varied and he had a difficult time staying focused. He denied suicidal and homicidal thoughts, but reported feeling a great deal of aggression and anger.

He also complained of physical aches and pains including knee, pain, neck pain, shoulder pain, and joint pain. Darren wants to avoid using medication to deal with the pain because he has seen the effects dependence has had on his teammates. Thus, I recommended that he try physical therapy or chiropractic treatment.

Because Darren has undergone a number of psychiatric and neurocognitive tests in the past year, I do not think retesting him at this time would be beneficial; and in fact, the test results could have validity issues as the result of so much past testing. Additionally, numerous physicians and other treatment providers have confirmed his diagnosis and the recommended course of treatment can be established. Specifically, he needs medication to stabilize his moods and regular psychotherapy.

Mr. Mickell was referred to the Wien Center to rule out the possibility of a memory disorder being present due to his issues with short term memory and cognitions.

In your opinion is this patient substantially unable to engage in any occupation for remuneration or profit?

08/12/2015 10:27 Mickell, Darren

(FAX) 954 989 9999

P.004/004

☒ Yes☐ No

If Yes, please explain what prevents him from working: Darren needs to get his depression, anxiety, and stress levels under control and then learn how to cope with his emotions as well as his physical pain and limitations before he is able to return to work in any capacity.

If No, in what type of employment can he engage?

Prognosis? Guarded. With medication and regular therapy Darren should be able to cope with his anxiety and depression to the point where he can attempt a return to work. However, I cannot comment on the extent of his physical limitations or how those may prevent him from gainful employment.

Comments:

Darren is desperate for help. His level of depression and anxiety is palpable and has had a negative impact on his relationships and ability to be productive. He is angry and frustrated by his problems and his inability to get better and move on with his life. At this time he lacks the ability to be a reliable and productive employee.

Based on my review of the medical reports, my conversation with Dr. Nunez, and my personal observations and clinical examination, it is my opinion that as the result of the cognitive and emotional impairments noted above, Mr. Mickell is unable to engage in any occupation.

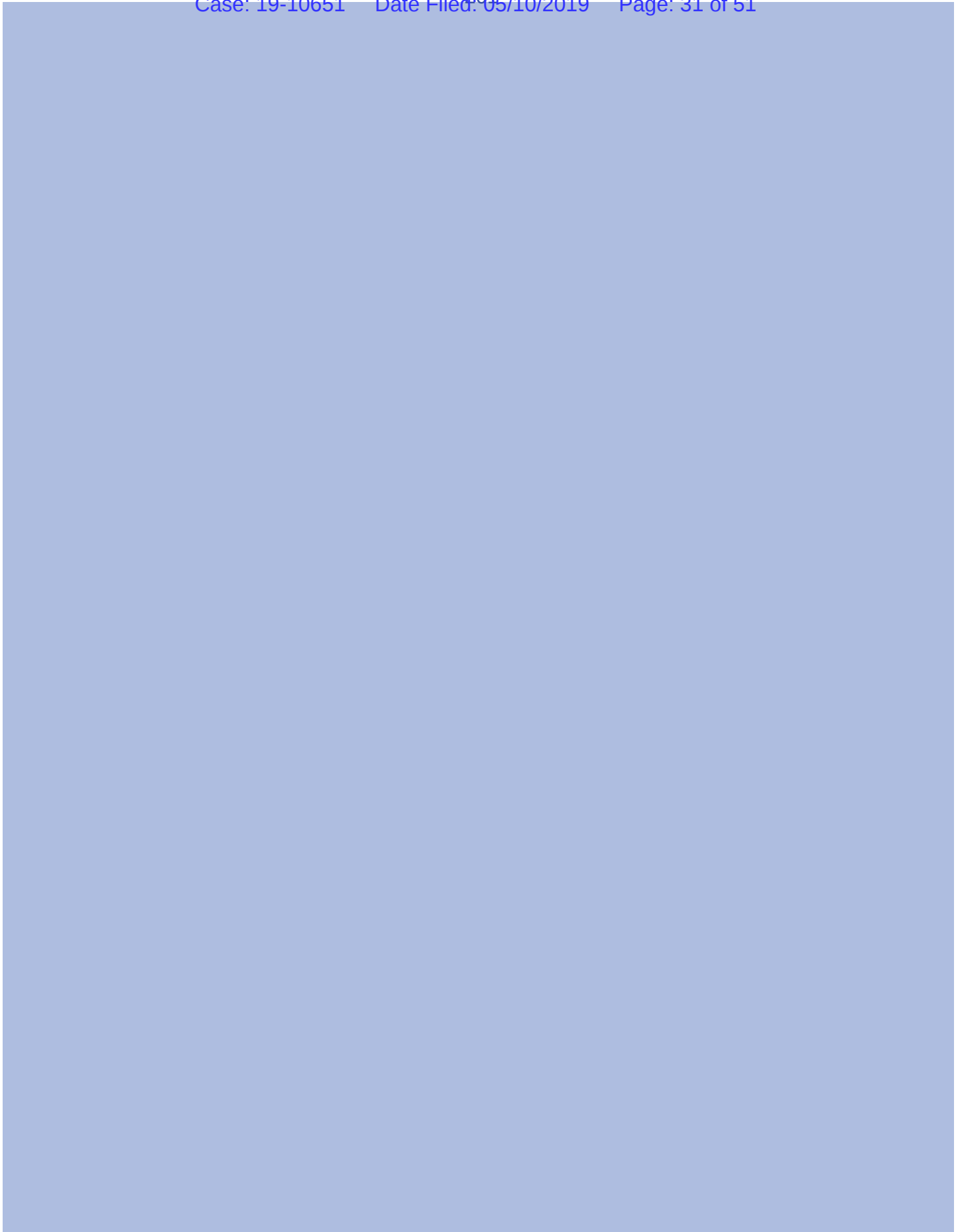
X



Rosa Gonzalez, LMHC

8/11/15

Date



MICKELL-1360

Board Actions for Darren Mickell

<u>Meeting Date</u>	<u>Type</u>	<u>Case Type</u>	<u>Issue</u>	<u>Decision</u>	<u>Effective Date/Action</u>
05-14-15.R		TPX	APA	Tabled	refer for neutral psychiatric evaluation Dr. George Canizares - Neutral Ortho/Dr. Peter Dunne - Neutral Neuro
09-04-14.R		TPX	APL	Denied	employable
05-15-14.R		TPX	APA	Tabled	pending neutral evaluation - Remand to DICC
09-23-13.R		TPX	APL	Denied	currently employed

SUMMARY

Total Cases: 4

Case Types- LOD: 1 DIS/TPX: 3

Issues- APA: 2 APL: 2

Decisions- Denied: 1 Tabled: 3

Issues: APL- Application CON- Continuation EDT- Eff. Date RCL- Reclassification EED- Earlier Eff. Date MSC- Miscellaneous
 APA- APL Appeal COA- CON Appeal EDA- EDT Appeal RCA- RCL Appeal EEA- EED Appeal MSA- MSC Appeal
 07/23/15

RBM 08/19/2015

MICKELL-1361

PLAYER: **Darren Mickell** SSN4: **-1926**
DOB: **[REDACTED] 1970**

ISSUE: Appeal of Disability Initial Claims Committee's Denial of Application for **Total and Permanent** Disability Benefits (Fall 2015 Meeting)

FACTS: **Eight (8) Credited Seasons: 1992-1997, 1999-2000**
Sum of Benefit Credits: **\$3,120.00**
09/23/2013 E-Ballot: T&P Disability application denied: currently employed
05/14/2014 RBM Meeting: T&P Disability appeal tabled: pending neutral evaluations - Remand to DICC
09/04/2014 E-Ballot: T&P Disability application denied: employable
05/14/2015 RBM Meeting: T&P Disability appeal tabled: refer for neutral psychiatric evaluation

ATTACHMENTS: 1) Plan Office Letter dated 05/20/2015
2) Physician's Report Form and Narrative dated 07/07/2015
Raymond Faber, M.D. (Neutral Psychiatrist)
3) Letter dated 08/12/2015 with attachment
Mindy L. Chmielarz (Player's Attorney)
4) Letter dated 06/25/2015 with attachment
Mindy L. Chmielarz (Player's Attorney)
5) Cover Sheet from the 05/14/2015 Retirement Board Meeting with
attachments
6) Board Actions List

Note: Player's complete file with Plan Director

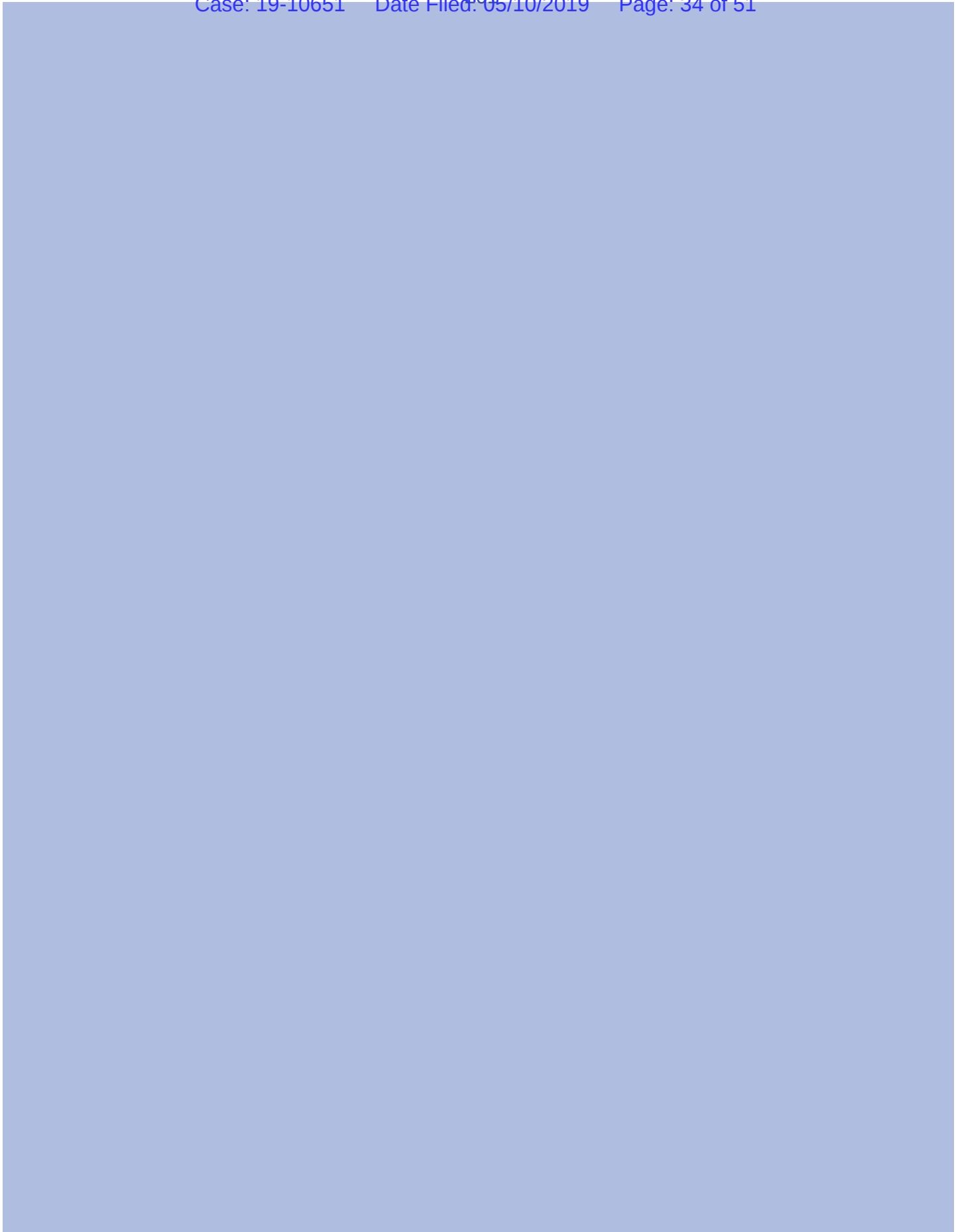
DECISION: _____

EFFECTIVE DATE: _____

RBM 08/19/2015

(APPEAL) DISABILITY CASE # 8

MICKELL-1362



MICKELL-1363

**BERT BELL/PETE ROZELLE NFL PLAYER RETIREMENT PLAN
RETIREMENT BOARD MEETING MINUTES**

August 18-19, 2015
San Diego, CA

A meeting of the Retirement Board of the Bert Bell/Pete Rozelle NFL Player Retirement Plan (the "Retirement Plan" or "Plan") was held in San Diego, California on August 18-19, 2015. The following individuals attended:

Retirement Board:

Management Council designated members:

Katie Blackburn
Dick Cass
Ted Phillips

NFLPA designated members:

Hoby Brenner (alternate)
Sam McCullum
Jeff Van Note

Commissioner's Delegate:

Harold Henderson

Guests and Advisors:

Alvaro Anillo	Larry Lamade
Mike Casey	Alex LeBlanc
Dick Charlton	Belinda Lerner
Andre Collins	Susan Luken
Dennis Curran	Mike Maricco
Tom DePaso	Bethany Marshall
Jack Donlan	Mike Miller
Doug Ell	Patrick Reynolds
Larry Ferazani	Lashay Rose
Eric Field	Chris Smith
Chris Flohr	Paul Scott
Jacinta Gauda	Craig Svendsen
Sarah Gaunt	Adora Williams
Bruce Gould	Michele Yaras-Davis
Eric Harnish	

All present could hear each other and be heard. Unless otherwise noted, all actions were unanimous.

Redacted

Redacted

Redacted

Individual Player Cases

The Retirement Board took the following actions (unless otherwise noted, all actions were unanimous):

Redacted

B. Disability Applications

Redacted

Redacted

8. **Darren Mickell** On review of appeal of earlier denial of application for total and permanent disability benefits, denied application for total and permanent disability benefits since Player is not substantially prevented from or substantially unable to engage in any occupation or employment for remuneration or profit, and consequently does not satisfy the requirements of Plan sections 5.1 and 5.2.

Redacted

Redacted



Next Meeting

It was agreed that the next meeting of the Retirement Board would be held on November 18-19, 2015 in the area of Jacksonville, Florida, the following meeting would be held on February 17-18, 2016 in the area of Miami, Florida, and that the meeting following the February meeting would be held on May 18-19, 2016 at a location to be determined.

There being no further business, the meeting was adjourned.



MICKELL-1369

**Bert Bell/Pete Rozelle NFL Player Retirement Plan**

200 Saint Paul Street • Suite 2420 • Baltimore, Maryland 21202-2008
410-685-5069 • 800-638-3186 • Fax 410-783-0041



VIA FEDERAL EXPRESS

August 27, 2015

Mr. Darren Mickell
9250 Chelsea Drive
Miramar, FL 33025

Re: Appeal for Total and Permanent Disability Benefits
Final Decision on Review

Dear Mr. Mickell:

At its August 19, 2015 meeting, the Retirement Board of the Bert Bell/Pete Rozelle NFL Player Retirement Plan ("Plan") considered your appeal from the Disability Initial Claims Committee's ("Committee") earlier denial of your application for total and permanent disability ("T&P") benefits. We regret to inform you that the Retirement Board affirmed the Committee's decision and denied your appeal.

Relevant Plan Provisions

Plan Section 5.1 provides that a Player is eligible for T&P benefits if he "is determined by the Retirement Board or the Disability Initial Claims Committee to be totally and permanently disabled in accordance with Section 5.2." Plan Section 5.2(a) concerns the "Determination of Total and Permanent Disability." It states:

"An eligible Player who is not receiving monthly retirement benefits under Article 4 or Article 4A will be deemed to be totally and permanently disabled if the Retirement Board ... finds (1) that he has become totally disabled to the extent that he is substantially prevented from or substantially unable to engage in any occupation or employment for remuneration or profit, but expressly excluding any disability suffered while in the military service of any country, and (2) that such condition is permanent. The educational level and prior training of a Player will not be considered in determining whether such Player is "unable to engage in any occupation or employment for remuneration or profit." A Player will not be considered to be able to engage in any occupation or employment for remuneration or profit within the meaning of this Section 5.2 merely because such person is employed by the League or an Employer, manages personal or family investments, is employed by or associated with a charitable organization, is employed out of benevolence, or receives up to \$30,000 per year in earned income. A disability will be deemed to be "permanent" if it has persisted or is expected to persist for at least twelve months from the date of its occurrence, excluding any reasonably possible recovery period."

MICKELL-1370

Section 8.2 discusses the “authority” of the Retirement Board. It provides that the Retirement Board “will have full and absolute discretion” to decide claims for benefits (Section 8.2(c)), among other things. Section 8.9 also discusses the authority and the level of discretion afforded the Retirement Board. It states as follows:

“Benefits under this Plan will be paid only if ... the Retirement Board ... decides in its discretion that the applicant is entitled to them. In exercising [its] discretionary powers under the Plan and Trust, the Retirement Board ... will have the broadest discretion permissible under ERISA and any other applicable laws, and [its] decisions will be binding upon all persons affected thereby. In deciding claims for benefits under this Plan, the Retirement Board ... will consider all information in the Player's administrative record, and shall have full and absolute discretion to determine the relative weight to give such information.”

Section 5.2(c) relates to “Medical Evaluations.” It reads:

“Whenever the Retirement Board ... reviews the application or appeal of any Player for T & P benefits under either subsection (a) or subsection (b) above, such Player may first be required to submit to an examination by a physician or physicians, or institution or institutions, or other medical professional or professionals, selected by the Retirement Board or the Disability Initial Claims Committee and may be required to submit to such further examinations as, in the opinion of the Retirement Board ..., are necessary to make an adequate determination respecting his physical or mental condition. Any person refusing to submit to any physical examination will not be entitled to any T&P benefits under this Article.”

Discussion

The Plan received your application for T&P benefits on September 17, 2013. As you know, the Committee denied your application for T&P benefits at its September 4, 2014 meeting after concluding that you are not totally and permanently disabled within the meaning of the Plan. The Committee based its decision largely upon the findings of three Plan neutral physicians: (1) orthopedist Dr. Chaim Arlosoroff, (2) neurologist Dr. Barry McCasland, and (3) neuro-psychologist Dr. Stephen Macciocchi. The basis for the Committee's decision was described to you in a letter dated September 8, 2014.

By letter dated March 9, 2015, your attorney, Mindy Chmielarz, appealed the Committee's initial decision to the Retirement Board. Among other things, Ms. Chmielarz argued that the neutral examinations were inadequate, and she submitted additional medical records in support of your application/appeal.

On appeal you were eventually referred to three additional Plan neutral physicians for further evaluation pursuant to Section 5.2(c). You were evaluated by: (1) orthopedist Dr. George Canizares, (2) neurologist Dr. Peter Dunne, and (3) neuro-psychologist Dr. Sutapa Ford. After examining you, Dr. Canizares opined that you are not totally and permanently disabled based on your orthopedic impairments, noting that you can engage in light duty employment with certain accommodations. Dr. Dunne found that your neurological impairments do not render you totally and permanently disabled, although he noted that you may have some mild cognitive impairment that would not affect your employability. Dr. Ford also indicated that you are not totally and permanently disabled. She reported that you failed all free-standing and embedded validity tests administered to you, which suggested that you were performing at levels suggesting significant exaggeration. She also reported that, despite your poor performance on the validity measures, your neurocognitive test scores showed that your neurocognitive performance was generally intact or only mildly impaired. Dr. Ford stated that you might have some level of psychiatric dysfunction that could impact your employability, and therefore she recommended that you undergo further psychiatric evaluation.

On April 28, 2015, Ms. Chmielarz submitted additional records in support of your application/appeal.

On April 29, 2015, Ms. Chmielarz submitted another letter criticizing Dr. Ford's examination and findings. Dr. Ford responded to those criticisms in a follow-up letter dated May 1, 2015.

At its May 14, 2015 meeting, the Retirement Board reviewed your appeal and all of the evidence submitted in support of or generated in connection with your application for T&P benefits. At that time, the Retirement Board decided, pursuant to Section 5.2(c), to refer you to a neutral psychiatrist, Dr. Raymond Faber, to follow up on Dr. Ford's stated concern about the nature and extent of your possible psychiatric dysfunction.

On June 25, 2015, prior to your examination by Dr. Faber, Ms. Chmielarz submitted a copy of a June 22, 2015 "psychological evaluation report" prepared by Peggy Vermont. Ms. Vermont concluded, in part, that you are suffering from significant mental health symptoms that impede your social, emotional, and occupational functioning and render you unemployable at this time. Ms. Vermont opined that your prognosis is fair assuming you undergo and follow through with treatment, but poor otherwise.

Dr. Faber evaluated you on July 7, 2015. In a report prepared following that evaluation, Dr. Faber diagnosed you with depression and anxiety, but indicated that these conditions do not preclude you from obtaining or maintaining gainful employment. Dr. Faber explained:

"Though Mr. Mickell has psychological difficulties which have an effect on

his functioning, I do not consider them to rise to a level which precludes some kind of employment. At this juncture I would offer two suggestions for Mr. Mickell. He would be well-served to engage in psychotherapy to help him gain insight into his personality and to develop more realistic expectations. Mr. Mickell greatly down plays his abilities and assets while he amplifies his difficulties. He has many positive qualities which he seriously undervalues. Secondly, Mr. Mickell should seek the services of a vocational counsellor for career guidance."

On August 12, 2015, your counsel wrote yet again to submit a two-page report from Rosa Gonzalez. That report conveyed Ms. Gonzalez's impression that you are currently unable to engage in any occupation due to depression and anxiety.

At its August 19, 2015 meeting, the Retirement Board reviewed your entire file, including, without limitation, the arguments submitted by your attorney, the reports and other medical evidence submitted by you and/or your attorney, and the reports of the Plan's neutral physicians. After considering all of the record evidence, the Retirement Board determined that there is substantial evidence to conclude that you are not totally and permanently disabled within the meaning of Section 5.2(a) of the Plan. The Retirement Board based this conclusion primarily upon the reports of the Plan's seven (7) neutral physicians, all of whom found that you are not totally and permanently disabled by your orthopedic, neurological, cognitive, and/or psychiatric impairments. For this reason, the Retirement Board denied your appeal.

The Retirement Board reached its decision despite the presence of potentially conflicting medical evidence in the record. As noted above, Sections 8.2 and 8.9 of the Plan give the Retirement Board "full and absolute discretion" to determine the relative weight to give information in the administrative record. The Retirement Board noted that some of the evidence you submitted indicated you have certain impairments but did not directly address whether you are totally and permanently disabled (i.e., unemployable) due to those impairments. The Retirement Board considered such evidence, but placed less weight on it compared to other evidence that did directly address the issue of whether you are able to work. As for the evidence that did squarely address the issue, the Retirement Board had more confidence in the reports of the Plan's neutral physicians. The Plan's neutral physicians are instructed to evaluate Players fairly, without bias for or against the Player, and they typically have experience evaluating Players and other professional athletes. (For these reasons, the reports from the Plan's neutral physicians are uniformly accepted and relied upon by both the members of the Retirement Board appointed by the NFL and those appointed by the NFL Players Association.) Here, the Retirement Board also noted that none of the Plan's neutral physicians found you to be totally and permanently disabled, and given this unanimity of opinion the Retirement Board credited the conclusions of its neutral physicians over any contrary evidence.

The Retirement Board noted your complaints—lodged by you or your counsel throughout the disability process—about the scheduling and/or conduct of some of the neutral examinations, the amount of time the Plan's neutral physicians spent evaluating you, and what you say were misstatements in the neutral reports. The Retirement Board found your complaints overstated in some cases (as exemplified by Dr. Ford's response to your attorney's April 29, 2015 letter) and wholly unjustified in others (e.g., your attorney's suggestion that the neutral examinations must be videotaped to ensure their integrity). The Retirement Board concluded that your application for T&P benefits has been given a full and fair review.. All seven of the Plan's neutral physicians found that you are able to work.

Appeal Rights

You should regard this letter as a final decision on review within the meaning of Section 503 of the Employee Retirement Income Security Act of 1974, as amended, and the regulations issued thereunder by the Department of Labor. You are entitled to receive, upon request and free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to your claim for benefits. You have the right to bring an action under Section 502(a) of the Employee Retirement Income Security Act of 1974, as amended, within 42 months from the date of this decision.

If you have any questions, please contact the Plan Office.

Sincerely,



Michael B. Miller
Plan Director
on behalf of the Retirement Board

MBM:prs

cc: Mindy Chmielarz

EXHIBIT B

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION

CASE NO. 0:15-cv-62195-JIC

DARREN MICKELL,

Plaintiff,

v.

BERT BELL/PETE ROZELLE NFL PLAYER
RETIREMENT PLAN,

Defendant.

DECLARATION OF HESSAM VINCENT

I, Hessam Vincent, declare the following:

1. I am over the age of 18, and I am otherwise fully competent to testify to the matters stated in this Declaration.

2. I am the Disability Manager for the Bert Bell/Pete Rozelle NFL Player Retirement Plan ("Plan").

3. As Disability Manager, I mainly supervise the Plan's disability Benefits Coordinators, who help Players file applications for disability benefits, coordinate medical examinations of Players with the Plan's Neutral Physicians, and maintain the files and records relating to Player applications. If issues arise during the processing of any given application, the Benefits Coordinators escalate those issues to me, for my attention, as I am charged with the overall responsibility of ensuring that Player applications are processed in accordance with the Plan's rules and procedures.

The Administrative Record

4. As the Disability Manager, I also supervise the preparation of disability application-related materials for presentation to the Plan's administrator, the Retirement Board.

5. I have reviewed the "Administrative Record" produced in this case (bates labeled MICKELL-001 through MICKELL-1374) and confirmed that the Administrative Record contains, among other things, all of the documents and information presented to the Retirement Board in conjunction with its August 27, 2015 decision on Mr. Mickell's application for total and permanent disability benefits.

Plan Neutral Physicians

6. As Disability Manager, I routinely act as a liaison between the Plan and the Plan's Neutral Physicians. Therefore, I am personally familiar with the instructions provided to and obligations of Plan Neutral Physicians concerning Player evaluations.

7. It is important to the Plan, the Board, and the bargaining parties that Plan Neutral Physicians conduct full, fair, and unbiased evaluations.

8. The Plan's Neutral Physicians understand these obligations.

9. In fact, all Plan Neutral Physicians—including Dr. Chaim Arlosoroff, Dr. Barry McCasland, Dr. Stephen Macciocchi, Dr. George Canizares, Dr. Peter Dunne, Dr. Sutapa Ford, and Dr. Raymond Faber—perform evaluations under written contracts with the Plan. All of those contracts provide that these physicians are, among other things, required to:

- a. personally evaluate Players and conduct appropriate testing;
- b. personally review and evaluate all records provided to them;
- c. personally and timely complete necessary forms and comprehensive narrative reports for each Player evaluated;

- d. conduct each test and evaluation, and prepare each report, to the highest professional standards, and without any bias or favoritism for or against any Player; and
- e. confirm that they have no conflict of interest that would impact their evaluations.

10. Pursuant to their contracts, all of the Plan Neutral Physicians—including Dr. Chaim Arlosoroff, Dr. Barry McCasland, Dr. Stephen Macciocchi, Dr. George Canizares, Dr. Peter Dunne, Dr. Sutapa Ford, and Dr. Raymond Faber—are paid a fixed fee for every Player they evaluate, regardless of the outcome of the evaluation.

11. True and correct copies of the relevant contracts between the Plan and each of the foregoing Plan Neutral Physicians are attached to this declaration.

I declare under the penalty of perjury that the foregoing is true and correct.

Dated: November 7, 2018



Hessam ("Sam") Vincent

Dr. Chaim Arlosoroff



Bert Bell/Pete Rozelle NFL Player Retirement Plan

200 Saint Paul Street • Suite 2420 • Baltimore, Maryland 21202-2008
410-685-5069 • 800-638-3186 • Fax 410-783-0041



NFL PLAYERS
ASSOCIATION

February 11, 2013

Chaim Arlosoroff, MD
Orthopaedic Care Specialists
733 U.S. Highway One
North Palm Beach, FL 33408

Re: Independent Medical Examinations for
Bert Bell/Pete Rozelle NFL Player Retirement Plan

Dear Dr.Arlosoroff :

Thank you for agreeing to serve the Bert Bell/Pete Rozelle NFL Player Retirement Plan ("Plan") by providing independent medical examinations of Players who seek disability benefits under the Plan. This letter ("Agreement") constitutes a formal and binding agreement between you and the Plan. It is necessary that you agree to these service standards, so that the Plan can refer Players to you. This agreement supersedes any prior Agreement between you and the Plan.

You agree:

1. To complete all necessary tests and evaluations and deliver your completed report to the Plan Office as soon as possible, but no later than 30 calendar days after receiving a request from the Plan to evaluate a Player, and to send your report to the Plan Office by FedEx or fax, as necessary to meet the deadline.
2. To perform the appropriate testing and evaluations for the Player according to the Player's application or as advised by the Plan Office or the Plan's Medical Director.
3. That such tests and evaluations shall include, without limitation, an evaluation of each Player by you personally, for as long as you deem medically necessary.
4. To personally review and evaluate any and all medical records and materials provided to you by the Plan. In the event you receive any materials directly from the Player or a representative of the Player, you will promptly forward a copy of such materials to the Plan, as long as the Player consents to such transmission to the Plan. If the Player does not so consent, you should not review and evaluate such materials; instead, you should return the materials to the Player and inform him that you are unable to consider such materials in connection with your examination of him.
5. To personally complete the Plan's Physician's Report Form as well as a comprehensive narrative report on each Player that specifies what records and materials you reviewed, what conclusions you reached, and what evidence supports those conclusions.